

1 James H. Seymour SBC No. 048651  
706 Cowper Street  
2 Palo Alto, California 94301  
Telephone: (650) 323-7226  
3 Counsel for Appellant  
Jennifer M. Moore  
4  
5  
6  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10 In re

No. C-07-03715 MMC

11 RICHARD L. HATFIELD,  
12

Appeal from USBC (N.D. Cal.)  
No. 07-30031 TEC 7

13 **ADMINISTRATIVE MOTION BY**  
14 **APPELLANT JENNIFER M. MOORE**  
15 **TO CONSIDER WHETHER CASES**  
16 **SHOULD BE RELATED, PURSUANT**  
17 **TO CIVIL L.R. 7-11**

18 Alleged Debtor.  
19

20 JENNIFER M. MOORE,  
21

Appellant,  
22

23 vs.  
24

25 RICHARD L. HATFIELD,  
26 FIRST TRUST CORPORATION  
27 FBO RICHARD L. SPEES  
28 FIRST TRUST CORPORATION  
FBO J.D. ERICKSON, and  
GEORGE RNJAK,

Appellees.

25 Appellant Jennifer M. Moore hereby moves pursuant to L.R. 3-12 and L.R. 7-11  
26 for consideration of whether case numbers C-07-03715 MMC, *In re Richard Hatfield*, and  
27 C-07-05373 CW, *In re Richard Hatfield*, should be considered related and assigned to the  
28 judge to which the lowest numbered case is assigned.

1 Each of the aforementioned cases is an appeal from an order of the United States  
2 Bankruptcy Court for the Northern District of California related to the dismissal of the  
3 involuntary bankruptcy case of *In re Richard L. Hatfield*, United States Bankruptcy  
4 Court for the Northern District of California case number 07-30031 TEC.

5 The earliest filed case, number C-07-03715 MMC, is an appeal from the dismissal  
6 of the involuntary bankruptcy of *Richard L. Hatfield*, which was dismissed pursuant to  
7 Bankruptcy Code, sec. 305 on the ground that dismissal was in the best interests of the  
8 creditors and the debtor. The later case, number C-07-05373 CW, is an appeal from an  
9 award of attorneys' fees to Hatfield against certain petitioning creditors in *Hatfield's*  
10 involuntary bankruptcy case – the dismissal of which is the subject of the lowest number  
11 case.

12 From the foregoing, it is apparent the issues and parties are not only related; they  
13 are intertwined. The dismissal of *Hatfield's* involuntary bankruptcy is the subject of the  
14 first appeal, and the attorneys' fees award for the obtaining the dismissal of the  
15 involuntary bankruptcy is the subject of the second.

16 Additionally, appellants wish to inform the Court that on 31 January 2008,  
17 *Hatfield* filed a *voluntary* bankruptcy petition – United States Bankruptcy Court for the  
18 Northern District of California case number 08-30154 TEC. As consequence of *Hatfield's*  
19 bankruptcy, the appellant in the lowest number case (C-07-3715 MMC), Jennifer Moore,  
20 will move in the bankruptcy court to obtain the that court's consent to consider a Rule  
21 60(b) motion to vacate the dismissal of *Hatfield's* involuntary bankruptcy case in order  
22 that the preference and avoidance dates applicable to transactions by Hatfield will be the  
23 earlier dates based on the filing date of the involuntary petition against him. The  
24 appellants in the later case (C-07-5373 CW) will also move in the bankruptcy court to  
25 obtain its consent to reconsider the award of attorneys' fees against the involuntary case  
26 petitioners in the light of *Hatfield's* voluntary filing.

27 The aforementioned motions will be based on the procedure described in *Gould*  
28 *vs. Mutual Life Ins. Co. of New York*, 790 F.2d 769, 772 (9th Cir. 1986), and reiterated

1 in *Davis vs. Yageo*, 481 F.3d 661, 685 (9th Cir. 2007). Should the bankruptcy court  
2 consent in either circumstance, remand will be sought in this Court, pursuant that  
3 procedure, in order to permit the consideration by the bankruptcy court of the rule 60(b)  
4 motions.

5 Respectfully submitted,

6 JAMES H. SEYMOUR

7  
8 Dated: 23 February 2008

9 /s/ James H. Seymour  
James H. Seymour  
Counsel for Appellant Jennifer M. Moore